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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/808,329	03/14/2001	Alan Taylor	55,085-CIP (18102)	3854
26646	7590	11/01/2004	EXAMINER	
KENYON & KENYON			ASHBURN, STEVEN L	
ONE BROADWAY			ART UNIT	PAPER NUMBER
NEW YORK, NY 10004			3714	

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,329

Applicant(s)

TAYLOR ET AL.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,14-24 and 26-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-49,53-57 and 62-65 is/are allowed.
- 6) ☒ Claim(s) 1,14-24,26-33,50-52 and 58-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim depends upon claim 12; however claim 12 is cancelled. Thus, the claim is indefinite because there is insufficient antecedent basis for its limitations. For the purposes of examination, it is assumed claim 17 depends upon claim 15.

Claim Rejections - 35 USC § 102

Claims 14, 15, 19-23, 26, 27, 31, 33, 52, 58 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodson et al., US 5,927,716 (Jul. 27, 1999).

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

Claim Rejections - 35 USC § 103

Claims 1, is rejected under 35 U.S.C. 103(a) as being unpatentable over Goodson et al., US 5,927,716 (Jul. 27, 1999) in view of Bruin et al., US 5,836,816 (Nov. 17, 1998) and Fujita, U.S. 4,725,077 (Feb. 16, 1988).

The features of the claimed invention taught or suggested by Goodsen are listed below.

- a. Substrate having an obverse and reverse side. *See fig. 1.* In particular, Goodsen discloses a physical card. Cards inherently possess an obverse and reverse side.

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b. Plurality of playing pieces which are disposed on the obverse side of the lottery ticket in at least one array comprising a plurality of panels, each of the panels comprising a number of playing game pieces. *See fig. 1; col. 2:25-43.*

c. Removable material having a surface that is disposed over, so as to conceal the plurality of playing game pieces wherein a plurality of unique indicia is deposited on the surface of the removable material so that each of the plurality of unique indicia corresponds to only one of the plurality of panels. *See fig. 1; col. 2:31-35, 4:1-22.*

d. A playing life including a plurality of drawing events where the lottery ticket can be played. *See col. 2:43-50, 3:19-27.* For example, the tickets disclosed by Goodsen can be used in any one of a weekly interactive event associated with a TV show. *See id.* Thus, the life includes a plurality of drawings during which the ticket “can be played”.

As described above, Goodsen teaches all the features of the claims except (i) placing instructions for two types of events on the ticket and (ii) disposing a playing life for the lottery ticket on the ticket.

Regardless, it would have been obvious to an artisan to modify Goodsen to include these features.

First, with respect to the playing instructions, Goodsen’s game ticket provides two games. It is common practice to provide instructions on lottery tickets to explain the steps required to play the game. For example, Bruin discloses an analogous lottery game ticket containing instructions for two types of lottery games to explain the steps required to play each game. *See fig. 2.* Thus, it would have been obvious to an artisan at the time of the invention to modify Goodsen, wherein a ticket allows a player to participate in two types of games, to add the feature of placing instructions for the at least two types of events on the ticket and thereby explain the steps required to play each game. As suggested by the ordinary knowledge of an artisan, providing instructions improves a system by explaining the proper steps for its use and thereby prevents confusion and errors amongst users.

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Second, Goodsen discloses common practice in the art to print a playing life (i.e. "validity date") on lottery tickets. *See col. 1:15-20*. This is especially true for lottery tickets that may be used over several drawing events to place a finite limit on the use of the ticket. For example, Fujita discloses a analogous lottery game which numbers are used in several drawing events. *See col. 1:10-15, 1:60-2:5*. The playing life of the ticket is set for one year or more. *See id.* As a result, participants are enticed to pay attention to the periodical drawing events and, thereby increase the promotional value of the game. *See id.* In view of Fujita, it would have been obvious to an artisan at the time of the invention to modify the lottery tickets disclosed by Goodsen, wherein tickets may be used over several drawing events, to add the feature of disposing a playing life on the ticket. As taught by Fujita, the modification would enhance the promotional value of the ticket while, as the same time, limiting the ticket's life to a finite duration. For example, in the embodiment of Goodsen where tickets are played in conjunction with a weekly a television program, the tickets' paying life might be set to coincide with the end of the program's broadcast season.

Claims 16-18, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodson

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

Claims 24, 28, 32, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodson in view of Fienberg, U.S. 4,943,090 (Jul. 24, 1990).

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

Claims 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodson in view of Fujita, U.S. 4,725,077 (Feb. 16, 1988).

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

Response to Arguments

Applicant's arguments with respect to claims 1, as amended, have been considered but are moot in view of the new ground of rejection.

Applicant's arguments with respect to claims 14-24, 26-33, 50-52, 58 and 59-61 have been fully considered but they are not persuasive. The applicant asserts that the claimed invention is not anticipated by Goodsen because the reference does not disclose "multiple event designations". The examiner respectfully disagrees. The tickets disclosed by Goodsen designate different drawing events with different labels. *See col. 4:7-10, 4:64-5:5*. For example, a first drawing event might designate that red play areas should be uncovered. A subsequent drawing an event might designate that blue play areas should be uncovered. Goodsen's tickets could be played in either drawing event using the portions of the ticket designated by the game operator. *See id.* Thus, Goodsen discloses multiple event designations. Consequently, the examiner maintains that the listed claims are anticipated by Goodsen.

Applicant's arguments with respect to claims 34 and 49 are persuasive. *See applicant's arguments filed July 8, 2004, pp. 17.-18.* The rejections of claims 34-49, 53-57, 62-65 have been withdrawn.

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Allowable Subject Matter

Claims 34-49, 53-57, 62-65 are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

s.a.



MARK SAGER
PRIMARY EXAMINER